

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Rules and Policies Concerning
Attribution of Joint Sales Agreements
In Local Television Markets

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MB Docket No. 04-256

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SUMMARY

The Joint Comments of Waterman Broadcasting Corporation, Montclair Communications, Inc. and LIN Television Corporation demonstrate that strong policy and equitable grounds warrant FCC review of the continued status of pre-November 5, 1996 (“grandfathered”) local marketing agreements (“LMAs”) in conjunction with its scheduled 2006 quadrennial review. The current unsettled nature of the FCC’s local media ownership rules underscore the appropriateness of conducting the FCC’s review of grandfathered LMAs when the FCC conducts a full review of its media ownership rules. The FCC made clear in 1999, when it decided to make post-November 4, 1996 LMAs attributable and grandfather earlier LMAs, that it intended to review the status of grandfathered LMAs in conjunction with a broad-based review of its ownership rules. This wise policy makes common sense since, among other things, the FCC’s changes in its media ownership rules may permit many of these grandfathered LMAs to convert to co-ownership, thus eliminating the need for a review of their LMA status.

Both Congress and the FCC have explicitly recognized the substantial public interest benefits grandfathered LMAs yield to the public. These recognized benefits are borne out in the record of the Joint Commenters’ pre-November 5, 1996 LMAs, which are located in the Fort Myers-Naples, Florida; Austin, Texas; and Providence Rhode Island-New Bedford, Massachusetts television markets. Reviewing the status of grandfathered LMAs now, separate from the more complete review of the FCC’s media ownership rules mandated by the courts and Congress, would impose significant costs on the FCC and the parties to such LMAs without any countervailing benefits.

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**JOINT COMMENTS OF
WATERMAN BROADCASTING CORPORATION,
MONTCLAIR COMMUNICATIONS, INC. AND LIN TELEVISION CORPORATION**

Waterman Broadcasting Corporation (“Waterman”), Montclair Communications, Inc. (“Montclair”) and LIN Television Corporation (“LIN,” and, together, the “Joint Commenters”) submit these comments in response to the invitation by the FCC for comments on whether it should commence a review of the continued status of “grandfathered” local marketing (or time brokerage) agreements (“LMAs”) entered into prior to November 5, 1996 now or, instead, as part of the scheduled overall review of the media ownership rules in 2006.¹ The Joint Commenters submit that strong policy and equitable grounds warrant FCC review of the continued status of grandfathered LMAs in conjunction with the scheduled 2006 quadrennial review — and for not doing so now when the television multiple ownership rules are in flux and

¹ *Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets*, Notice of Proposed Rule Making, MB Docket No. 04-256, __ FCC Rcd ___, 2004 WL 1713837 (rel. Aug. 2, 2004) (“*Joint Sales NPRM*”).

subject to judicial remand orders raising questions about the limitations of the existing rules and requiring further justification of the more relaxed rules adopted June 2, 2003.

I. Background

A. Joint Commenters

Waterman and Montclair own and operate stations in the Fort Myers-Naples, Florida Designated Market Area (the 70th ranked DMA). Montclair is the licensee of WZVN-TV (Ch. 26, ABC), Naples, and Waterman, through its subsidiary Waterman Broadcasting Corporation of Florida, Inc., is the licensee of WBBH-TV (Ch. 20, NBC), Fort Myers.²

Waterman provides programming, advertising and other services to WZVN-TV pursuant to a pre-November 5, 1996 LMA. Waterman and Montclair have pending before the FCC a joint request for waiver of the existing (pre-June 2, 2003) duopoly rule to permit merger of the two licensees based on the FCC's case-by case "failing station" standard and the demonstrable, significant public interest benefits inuring to the public from joining the forces of the two local owners under joint ownership.

LIN is a long-time television station group owner which, through subsidiaries, is the licensee of 24 full-power stations. In the Providence, Rhode Island-New Bedford, Massachusetts market (the 49th ranked DMA), LIN owns WPRI-TV (Ch. 12, CBS), and, through a pre-November 5, 1996 LMA, it provides programming, advertising and other services to WNAC-TV (Ch. 64, Fox), licensed to WNAC, LLC. In the Austin, Texas market (the 54th ranked DMA), LIN owns KXAN-TV (Ch. 36, NBC), and, through a pre-November 5, 1996 LMA, it provides programming, advertising and other services to KNVA (Ch. 54, WB), licensed

² Another Waterman subsidiary is the licensee of WVIR-TV (Ch. 29, NBC) in Charlottesville, Virginia.

to 54 Broadcasting, Inc. LIN previously was involved in grandfathered LMAs in three other markets.

B. *Procedural History*

On August 5, 1999, the FCC adopted its *Attribution Order* which, among other things, determined that television LMAs in which a broker provides more than 15% of the weekly programming on a brokered station would give a same-market broker an attributable interest in the brokered station.³ In its companion *Local Ownership Order*, the FCC agreed to provide extended grandfathering relief to parties to “pre-existing” LMAs which, as a result of the rule change, otherwise would be placed in noncompliance with the multiple ownership rules.⁴

The *Local Ownership Order* found that strong equitable and other public interest reasons required the FCC to provide grandfathering relief to LMAs entered into prior to November 5, 1996 — the date on which the FCC had adopted its initial notice of proposal to deem television LMAs an attributable interest.⁵ The FCC determined, for example, that parties entering into such LMAs had “settled expectations established by [their] plans and investments” made at a time when the FCC did not have any rule or policy prohibiting LMA arrangements.⁶ In addition to such equitable considerations, the FCC found that studies had shown:

³ *Review of the Commission’s Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Report and Order, MM Docket No. 94-150, 14 FCC Rcd 12559, 12597 (rel. Aug. 6, 1999) (“*Attribution Order*”).

⁴ *Review of the Commission’s Regulations Governing Television Broadcasting*, Report and Order, MM Docket No. 91-221, 14 FCC Rcd 12903 (rel. Aug. 6, 1999) (“*Local Ownership Order*”), Order on Reconsideration, 14 FCC Rcd 20571 (rel. Nov. 10, 1999), *remanded sub nom on other grounds*, *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002).

⁵ *See Review of the Commission’s Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Further Notice of Proposed Rule Making, MM Docket No. 94-150, 11 FCC Rcd 19895 (rel. Nov. 7, 1996).

⁶ *Local Ownership Order* ¶ 144.

that LMAs helped some struggling stations complete construction of their facilities or upgrade them, allowed others to add a local newscast or other local programming to their schedule, and more generally permitted stations to take advantage of operating efficiencies to serve their viewers better. We do not wish to disrupt these public interest benefits.⁷

For these and other reasons, including solid evidence that Congress had favored permanent grandfathering relief (see pages 7-8), the 1999 decision ruled that the FCC would permit pre-November 5, 1996 LMAs to continue in full force and effect, and to be freely transferred and renewed, at least through the FCC's 2004 biennial review of its media ownership rules. As part of that broad-based, overall media ownership assessment, the FCC planned to review the continuing status of grandfathered LMAs. It would consider, for example, on a case-by-case basis (based on several factors, such as contributions of the LMA arrangement to upgrading a brokered station's operations and facilities) whether to permit continued (possibly permanent) grandfathering status.⁸ Parties also would have the opportunity to file applications to seek to convert their LMA arrangement into duopoly ownership based on the then-applicable FCC rules and policies.

The FCC also determined that these reasons did not warrant similar special relief for parties to LMAs entered into after the initial notice of proposal to expand the attribution rules. Parties to post-November 4, 1996 LMAs were given two years from the August 5, 1999 adoption date of the *Local Ownership Order* to terminate their LMA arrangements or otherwise come into compliance with the revised rules.⁹

⁷ *Id.* ¶ 145.

⁸ *Id.* ¶ 148.

⁹ *Id.* ¶ 142.

On January 22, 2004, the President signed into law a provision that replaced what had become an unworkable biennial review process with a quadrennial review requirement.¹⁰ Under that legislative change, the FCC's next planned review is set to begin in 2006. The FCC's recent *Joint Sales NPRM* — which focuses on the issue of whether television joint sales agreements should create an attributable interest in the broker — notes the substitution of the 2006 quadrennial review for the 2004 biennial review. It then asks for comments on whether the FCC's review of the continued status of grandfathered television LMAs should move forward now or become part of the scheduled overall review of the FCC's media ownership rules in 2006.¹¹

II. Argument

A. *The FCC Should Review The Status of Grandfathered LMAs In Tandem With Its Overall 2006 Review Of Media Ownership Rules.*

The current unsettled and uncertain status of the television ownership rules underscores the appropriateness of the FCC conducting its review of the continuing status of grandfathered LMAs in tandem with the first quadrennial review of the media ownership rules and not at the current time.

As noted, in 1999 the FCC decided against setting a firm deadline (as it had done for post-November 4, 1996 LMAs) for termination of pre-November 5, 1996 LMAs. Instead, it provided extended grandfathering relief for pre-existing LMAs, with the aim of reviewing their status as part of a later broad-based overall review of the FCC's media ownership rules and of

¹⁰ Consolidated Appropriations Act, 2004, Pub L. No. 108-199, § 629, 118 Stat. 3 (2004).

¹¹ *Joint Sales NPRM* ¶ 21. The FCC does not suggest (nor should it) that a change in its future policies with respect to television JSAs would alter the grandfathering relief already accorded by it to pre-November 5, 1996 LMAs (which typically cover sales as well as programming services to the brokered station).

the rapidly changing, more competitive and diverse marketplace. The FCC was cognizant of the fact that, during the intervening years, its local television and cross-ownership restrictions would likely evolve in light of those changing circumstances, and that the overall record established as part of a broad-based review would provide the FCC and the parties appropriate grounds for assessing grandfathered LMA arrangements or for permitting some of them to be converted to duopoly ownership — thus, potentially eliminating any necessity to undertake a case-by-case review of the grandfathering status.

Pressing forward now with a LMA status review, especially given the unsettled status of the ownership rules, would undermine the orderly and more equitable approach envisioned by the FCC in 1999. In 2002, the United States Court of Appeals for the District of Columbia Circuit raised serious questions regarding the current duopoly television standard which requires eight independently owned television stations to remain in the market following an in-market TV merger and remanded the current restriction for further FCC consideration¹² — a restriction which impedes some grandfathered LMAs from converting to duopolies. The FCC’s June 2, 2003 *Media Ownership Decision*¹³ adopted a local television ownership rule which permits duopoly formation in more markets (and tripolies in the largest markets), eliminates the voice-test standard questioned by the District of Columbia Circuit and includes an important top-four waiver standard for smaller markets with 11 or fewer stations.¹⁴ In June 2004, the Third Circuit Court of Appeals ordered the remand of the new rules adopted as part of

¹² *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002).

¹³ *Report and Order and Notice of Proposed Rulemaking*, 18 F.C.C.R. 13,620 (2003) (“*Media Ownership Decision*”).

¹⁴ *Id.* ¶¶ 221-232.

the 2002 biennial review,¹⁵ and, as of this date, the FCC has not commenced remand proceedings. While the Third Circuit approved aspects of the revised rules, including the top-four waiver standard,¹⁶ it issued a general judicial stay of the new rules (before they became effective) pending remand proceedings (later excepting from the stay only portions of the new radio rules).

At this juncture, when the governing ground rules are unclear and in flux, it would be premature to initiate case-by-case review of grandfathered LMAs and risk depriving the public of the recognized benefits of such arrangements.

B. *Reviewing Grandfathered LMAs Now Would Be Unnecessary, Unduly Costly, And May Lead To Significant Negative Equitable And Public Interest Consequences.*

The FCC's decision to provide extended grandfathering relief to pre-November 5, 1996 LMAs was well grounded on the basis that these LMAs, in general, provide substantial benefits to the public, and such benefits would continue to inure to the public from these arrangements.

1. The Recognized Value Of Grandfathered LMAs.

Both the Congress and the FCC have recognized the significant public interest benefits that pre-existing LMAs produce for the markets they serve. In Section 202(g) of the Telecommunications Act of 1996 (the "1996 Act"), Congress stated that "[n]othing in this section shall be construed to prohibit the origination, continuation, or renewal of any television

¹⁵ *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004).

¹⁶ *Id.* ¶ 416-17.

local marketing agreement that is in compliance with the regulation of the Commission.”¹⁷ The Conference Report to the 1996 Act explained that Section 202(g):

grandfathers LMAs currently in existence upon enactment of this legislation and allows LMAs in the future, consistent with the Commission’s rules. The *conferees note the positive contributions of television LMAs* and this subsection assures that this legislation does not deprive the public of the benefits of existing LMAs that were otherwise in compliance with Commission regulations on the date of enactment.¹⁸

Congress reiterated its support for the important contributions provided by then existing LMAs in the Conference Report to the Balanced Budget Act of 1997, in which the conferees stated that they “expect that the [FCC] will provide additional relief . . . that it finds to be in the public interest, and will implement the permanent grandfathering requirement for local marketing agreements as provided in the Telecommunications Act of 1996.”¹⁹

Similarly, the FCC has recognized the public interest benefits created by many grandfathered LMAs. The FCC concluded, for example, that there “are strong equities against requiring [parties to these pre-November 5, 1996 LMAs] to divest there interests”²⁰ and that, “[i]n addition to these equities, the record shows that a number of television LMAs resulted in public interest benefits.”²¹

¹⁷ Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(g), 47 U.S.C. § 202(g) (1996). (In February 1996 when this provision was enacted, pre-November 5, 1996 LMAs were in compliance with the FCC’s regulations.)

¹⁸ S. Conf. Rep. 104-230, 104th Cong. 2d Sess. 163, 164 (1996) (emphasis added).

¹⁹ H. Conf. Rep., 105th Cong. 1st Sess., 143 Cong. Rec. at H6175 (1997).

²⁰ *Local Ownership Order* ¶ 144.

²¹ *Id.* ¶ 145.

2. Grandfathered LMAs Continue To Benefit The Public.

The record before the FCC regarding the Joint Commenters' grandfathered LMAs provides concrete evidence of how pre-November 5, 1996 LMAs have served and continue to serve the public interest. The excerpts from Joint Comments filed in the 2002 Biennial Review²² attached to Annex A hereto illustrate how the Waterman/Montclair and LIN LMAs have yielded benefits to the public.

In the Fort Myers-Naples market, for instance, Waterman's involvement with WZVN-TV has resulted in turning a struggling, failing station into a more viable competitor with a distinct, independent voice. Waterman's commitment to the long-term viability of WZVN-TV has included, for example, replacement of deteriorating and poor grade equipment with state-of-the-art plant and equipment and many millions of dollars of investment in the digital transition. At the time of the 2002 Joint Comments, the news staff devoted to WZVN-TV had risen to 33 employees, and the station's locally-produced news programming had expanded from six hours per week to 19.5 hour per week. Annex B hereto provides one recent example that exemplifies the parties' continued extraordinary commitment to serving the community. While WBBH-TV and WZVN-TV carry separate programming, they joined forces in order to provide almost continuous coverage of Hurricane Charley, and its impact on the Fort Myers-Naples area. As summarized in Annex B, the combined efforts of the stations to provide up to the minute information, including warnings of a change in the hurricane's course in advance of such

²² 2002 Biennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Comments of Coalition Broadcasters LIN Television Corporation, Raycom Media, Inc., Waterman Broadcasting Corporation, and Montclair Communications, MB Docket No. 02-277 (filed Jan. 2, 2003). During the two years following the filing of the Joint Comments, the programming information summarized in Annex A may have been superceded in certain particulars, but the significant operating efficiencies and public interest benefits remain.

notification from the National Weather Service, has been widely praised as an invaluable service to the community.

LIN also has dramatically improved the stations with which it has had pre-November 5, 1996 LMAs. Three of the LMAs briefly described in Annex A — those in the Grand Rapids-Kalamazoo-Battle Creek, MI; Hartford-New Haven, CT; and Norfolk-Portsmouth-Newport News, VA markets — have subsequently been converted to duopoly ownership. In Hartford-New Haven, the FCC granted a waiver of its eight-voice/not-both-top-four-station duopoly standard based on the public interest benefits arising for the LMA arrangement, including construction of an otherwise unbuilt facility.²³ In Austin, Texas, KNVA, which today is the WB affiliate, was an unbuilt station when LIN's KXAN-TV entered into an LMA with it in June 1994. It is now operational with a first-class physical facility. KNVA has a programming strategy targeting the young, underserved Austin audience and has won awards for its public service campaigns. In Rhode Island, the LMA which was formed in 1996 and assumed by LIN in 2002, has led, with LIN's assistance, to WNAC-TV's recommitment to local news, sports and public affairs programming.

3. Pressing Forward Now To Review Grandfathered LMAs Would Impose Significant, Unnecessary Costs Without Countervailing Benefits.

Launching an immediate review of all pre-November 6, 1996 LMAs would involve significant costs for the FCC as well as the parties to LMAs. As noted, the process would be made unnecessarily complex and inequitable by pressing ahead when the media ownership rules, and the local television restrictions in particular, are in such an unsettled status.

The media ownership rules that emerge from the judicial remand proceedings

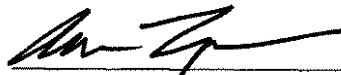
²³ *K-W TV, Inc.*, DA 020-100 (Chief, MMB, rel. Jan. 15, 2002).

could well make it unnecessary to review many grandfathered LMAs. For example, once effective, the new top-four waiver standard for markets with 11 or fewer television stations, which was adopted by the FCC and discussed with approval by the Third Circuit, provides the opportunity for conversion of certain grandfathered LMAs (including support for the pending Montclair-Waterman merger). Further, if the FCC provides appropriate justification for its revised general duopoly/triopoly rule, pursuant to the Third Circuit's remand order, the more relaxed rule would make it unnecessary to consider grandfathered arrangements which would comply with the revised restrictions. Moreover, considering the status of grandfathered LMAs when the overall rules are unsettled could lead to the perverse result of terminating an LMA that is serving the public and may be permitted to be co-owned under the rules established in the next comprehensive review. In short, commencing its grandfathered LMA status review in tandem with the first quadrennial review would provide a more orderly, efficient and fair procedure — and one avoiding the inequities to the parties and the potential adverse consequences to the public of making critical judgments about grandfathered LMAs before essential ownership ground rules are determined.

* * * *

Pre-November 5, 1996 grandfather LMAs provide clear public interest benefits. Considering their continued status as part of the 2006 quadrennial review is supported by efficiency, public interest and equitable considerations without any countervailing public interest harms.

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ANNEX A

Excerpts from January 2, 2003 “Comments of Coalition Broadcasters” in MB Docket Nos. 02-277, et al.

III. EMPIRICAL EVIDENCE DEMONSTRATES THAT TV DUOPOLIES AND LMAS BENEFIT THE PUBLIC.

A. Impact Of Duopolies/LMAs On Station Viability And Service.

The following sections describe specific, real-world experiences demonstrating that same-market TV combinations should be presumed to enhance the viability and service of broadcast television stations.

1. Waterman & Montclair.

The LMA between Waterman and Montclair in the Fort Myers-Naples, FL DMA, illustrates how the efficiencies of joint operation and the support of a committed station owner in the same market can turn a struggling, even failing, station into a healthy competitor with a distinctive local voice, providing important service to the public. Waterman is the licensee of WBBH-TV (Ch. 20, NBC), Fort Myers, Florida. It provides programming, advertising and other services to a second station in the market, WZVN-TV (formerly WEVU-TV) (Ch. 26, ABC), Naples, Florida ("WZVN"), pursuant to an LMA with Montclair. The LMA has been in place since 1994.²⁰ The market is mid-sized (the 70th ranked DMA) with significant diversity, but lacks the magic numbers required to satisfy the current "8-voice-top-4" test.

When the LMA took effect in June 1994, WZVN had passed through the hands of three different owners in the previous two years. WZVN suffered from a disadvantageous tower location and height, the close proximity of a fellow ABC affiliate in the county immediately north of its DMA, and a plant and operations that were slipping well below industry standard. Its

²⁰ Montclair has been the licensee of WZVN since 1996. In a separate proceeding, Waterman and Montclair are jointly seeking reconsideration of an FCC decision dismissing the joint application of Montclair and Waterman to transfer control of Montclair to Waterman and thus create a duopoly in the Fort Myers/Naples market. *See* Joint Petition for Clarification of the Record and Reconsideration, BTCCT-20011121AAY (Sept. 9, 2002) ("Joint Petition").

books showed positive cash flow but sustained and mounting operating losses. Cash flows were insufficient to sustain the station's debt, interest and capital improvement needs and existed because the previous owners, among other things, deferred investment in necessary facilities, equipment and operational enhancements. The station's service to the public reflected this poor financial condition. Its 1994 owner considered ending the station's local news service but ultimately concluded that WZVN could not survive as a stand-alone operation and therefore entered into the LMA with Waterman.²¹

The efficiencies brought about by the LMA and Waterman's commitment to the long-term viability of the station turned it around. They led to the complete modernization of WZVN's plant and equipment, including an investment of more than \$2.6 million in equipment for the sole use of WZVN, plus more than \$5 million in assets to be used by both WZVN and WBBH-TV. The efficiencies enabled WZVN to expand local programming. Thirty-three employees are now devoted to producing WZVN's news, which is independent of WBBH-TV's, and the station has greatly expanded local news (from 6 hours per week to approximately 19.5 hours) and children's and other public service programming.²² Finally, without the efficiencies created by the LMA, WZVN would have been in danger of forfeiting its digital channel because

²¹ The facts summarized here and in the subsequent paragraphs are further detailed and supported in the Joint Petition.

²² Since entering into the LMA, WZVN has become significantly involved in public service in the Naples community. For over five years, WZVN with more than 100 businesses and local schools has sponsored KidsFest an annual event where more than 30,000 families come to enjoy a day of fun and educational activities. For this event WZVN creates TVLand, complete with hands-on computer and Internet access, HDTV demonstrations and weather education. WZVN also produces public service announcements, buys newspaper advertisements and radio time, places promotional announcements and provides coverage of events such as an annual blood drive, the Salvation Army holiday toy drive, sneakers and clothes drive for kids, the March of Dimes, the Naples Art Festival, US Army Jazz band live concerts, and Naples' Fifth Avenue South community projects. In addition, WZVN hosts weather seminars for the public and schools and prints free educational guides on hurricanes and lightning.

it could not have generated the necessary funds to build out in a timely manner. Today, however, with the aid and commitment of Waterman, WZVN has been broadcasting in digital since October 31, 2002, from a more advantageous site shared with WBBH-TV.

The owners of Waterman and Montclair, concerned about the future stability of these accomplishments, seek to convert the LMA into joint ownership by Waterman. Unfortunately, the market is slightly too small to permit duopolies under the 8-voice-top-4 test, in spite of the fact that its seven independently-owned, full-power television stations provide robust competition for advertising and outlets for CBS, NBC, ABC, FOX, WB and PBS programming, as well as one independent station. A separately-owned Class A low-power station, WEVU-LP, Fort Myers, in combination with WBSP-LP, Naples, and an LMA agreement with Comcast Cable, provides the Fort Myers-Naples DMA with an outlet for the UPN network and enjoys full cable carriage throughout the market. Comcast itself offers diverse programming, including local programming, and enjoys local advertising revenues larger than two of the full-power television stations in the market combined. Other competitors include Time Warner which has cable systems serving portions of the DMA, DBS, and daily newspapers with large circulation published by major companies including Gannett, Scripps Howard, and the New York Times, as well as one published by the Sun Coast Media Group.²³

Despite this diversity, the existing duopoly rule unfairly ignores the public interest benefits achieved through joint operation of WBBH-TV and WZVN. The size of the Fort

²³ As explained above, the penetration levels of cable and alternative delivery systems (including DBS) in Fort Myers are 90.4%, which is significantly higher than other markets in Florida and nationwide. In addition there is strong competition for advertising revenue from the newspapers in the Fort Myers market. The revenue of the Gannett, Scripps Howard and Sun Coast Media papers in 2001 was \$182,559,464 compared with the *combined* revenue of \$66,782,000 for WBBH-TV, WINK-TV, WFTX-TV, WTVK-TV, and WZVN-TV.

Myers-Naples market prevents the Commission from taking into account, in considering the proposal for common ownership of the two stations, the benefits of a duopoly, including reviving a struggling station, providing more and distinct local programming, and enabling prompt DTV rollout. Nor does it make a difference under current rules that, for a market of its size, Fort Myers-Naples offers remarkable diversity of viewpoints and especially vigorous competition for advertisers and programming. Even if the Commission ultimately grants the waiver sought in this case, the Coalition Broadcasters submit that the duopoly rule should be changed so that situations in which the public interest benefits of joint ownership are so clear-cut and compelling will become easy cases for winning duopoly approval, not hard ones.

2. Raycom.

a. Honolulu, HI

Diversity, competition and service to the community have been significantly strengthened in the Honolulu, Hawaii market (the 72nd ranked DMA) as a result of the combined operations of KFVE (Ch. 5, WB) and KHNL (Ch. 8, NBC). Prior to April 16, 1993, when the licensee of KHNL (Ch. 8, NBC) entered into an LMA to provide programming, advertising and other services to KFVE (Ch. 5), KFVE did not provide any regular local news or sports coverage and provided little other local program service. KFVE's programming consisted primarily of about eight hours of movies a day, paid programming and some syndicated shows. Raycom estimates that more than half of the station's gross revenue came from paid programming and call-in solicitation lines.

Raycom took over the LMA when it acquired KHNL, and on December 31, 1999, it converted KFVE into a duopoly. Through joint operation, KFVE has become a significant local voice in the community. Under the LMA, KFVE was initially a UPN affiliate; it later acquired a secondary affiliation with the WB network, and since September 2002 has operated as

two stations' digital facilities (WOIO initiated digital operations in October 1999 and WUAB in April 2002), the licensee thus far has expended more than \$3.5 million.

3. LIN.

In five markets, LIN owns and operates two stations, and in three markets LIN provides services under LMAs to economically disadvantaged stations.³³ Each of these arrangements has transformed a failing, unbuilt or otherwise underutilized station into a vigorous new source of programming and local service for the public.

a. From LMA To Duopoly.

(1) Grand Rapids-Kalamazoo-Battle Creek, MI

Since 1983, LIN has owned VHF station WOOD-TV (Ch. 8, NBC) in the Grand Rapids-Kalamazoo-Battle Creek, Michigan market (the 38th ranked DMA). In October 1991, LIN entered into an LMA with WOTV (Ch. 41, ABC) and in January 2002, it acquired WOTV.³⁴ In nearly two decades of operation prior to the LMA, WOTV sustained multi-million dollar losses. WOTV was unable to obtain high quality programming, particularly as a UHF station during the mid-1970s when there were only three television networks. Although WOTV

³³ LIN also has duopolies in two additional markets not discussed in detail below – Buffalo, New York (the 44th DMA) and San Juan, Puerto Rico. In the short time since LIN acquired WNLO (Ch. 23, I), Buffalo, New York, in 2002, the station has made significant strides to provide better service to its viewers. WNLO is the only station to provide a 10:00 pm newscast seven days a week. WNLO also recently announced that it would become an UPN affiliate beginning in January 2003. In addition, WNLO has aired important public service programming such as a gubernatorial debate, and has improved its transmission and production facilities and constructed a new tower. Since LIN acquired WJPX (Ch. 24 PAX) in August 2001, the programming has expanded to 24 hours a day and has improved substantially to include local sports such as basketball, baseball and golf. In addition, its regularly scheduled programs now include programs highlighting local small businesses and industries, local social and cultural activities, and news and interviews on personalities from the Dominican Republic. LIN has also upgraded the station's facilities by improving the transmitter site, adding state of the art master control facilities and installing digital facilities.

³⁴ WOOD-TV was formerly licensed under the call sign WOTV, and WOTV was formerly licensed as WUHQ.

eventually became an ABC affiliate, its market potential was stunted by a VHF ABC affiliate licensed to the larger nearby community of Grand Rapids, whose coverage area substantially overlapped that of WOTV.³⁵ WOTV's financial situation eventually became so desperate that it had to discontinue local news service entirely. Today, however, with the commitment and contributions of staff and resources by LIN, WOTV has evolved into a station with an important local presence.³⁶

WOOD-TV provided the expertise and equipment to grow significantly WOTV's news organization. Under the LMA, WOTV now broadcasts local news at 6:00 p.m. and 11:00 p.m. weekdays, targeted specifically at smaller communities in the DMA, such as Battle Creek and Kalamazoo, which are underserved by stations licensed to Grand Rapids. It also computerized its newsroom and obtained access to satellite news trucks and other essential ENG equipment. Since its acquisition by WOOD-TV, WOTV also has added 6:00 a.m. to 7:00 a.m. weekday newscasts, as well as 6:00 p.m. and 11:00 p.m. newscasts on Saturday and Sunday – for a total of thirteen hours of *local* news per week. It has created a community affairs newscast segment that informs the public of various events and fundraisers in the community that need volunteer participation. WOTV now has access to the largest Doppler Radar System in Michigan, enabling it to track storm systems and provide viewers with accurate, up-to-the-minute forecasts. Finally, WOTV, with WOOD-TV's assistance, provides a website that offers

³⁵ The overlapping ABC affiliate station, WZZM-TV in Grand Rapids (Ch. 13), was subject to certain tower restrictions and thus could not provide coverage to Kalamazoo or Battle Creek. This enabled WOTV to obtain the ABC affiliation in the first place but also provided the station with a permanent competitive handicap.

³⁶ WOOD-TV shares a Community Affairs Director, a Promotions/Marketing Director, a Director of Engineering, a Programming Manager, an Operations Manager, a Web Manager and a Business Manager with WOTV, which create many back-office efficiencies for the station.

news stories and information concerning non-profit events in the community. As a result, WOTV has helped local non-profits raise over \$1.6 million per year over the last four years.

In addition to bolstering its local news, WOTV now produces the only local college sports TV show in the area, *Wall to Wall Western*, a weekly program highlighting sporting events at Western Michigan University, which is located in Kalamazoo, the underserved portion of the market served by WOTV. WOTV also broadcasts another weekly sports show, *Wall to Wall*, a program produced by WOOD-TV highlighting high school sports. WOTV has expanded its children's educational programming through its collaboration with ABC in the production of *Children's First* programs, production of 30-minute local programming segments, and coordination with local schools to make ABC programming available to educators.

WOTV has produced and aired local specials on drug and alcohol abuse and domestic violence. With assistance from WOOD-TV, WOTV airs the Muscular Dystrophy Telethon and provides live broadcasts of local parades in Battle Creek and Kalamazoo. To complement this wide array of public service programming, WOTV partners with WOOD-TV on the Angel Tree campaign, which provides over 40,000 gifts each year to needy children. The stations have also partnered to distribute free smoke detectors to community residents, and WOTV has provided free NOAA Weather Radios to the community.

The two stations are programmed independently, and by adding new valuable advertising inventory, WOTV has made both the local and national spot markets substantially more competitive.³⁷ WOTV offers shows such as Martha Stewart and The View, which are not

³⁷ One of the hypothetical overhead efficiencies of LMAs or duopolies, combined sales forces, has not proven out in LIN's experience, either at WOTV or at any of the other LIN LMAs. LIN has found that because of the significant differences in the value of the spots on WOOD-TV and WOTV, it is far (footnote cont'd)

available on any other station in the area. Finally, not only has WOTV's relationship with WOOD-TV enhanced the quality of its programming, but also it has enabled WOTV to upgrade its technical facilities. Specifically, WOTV has obtained a new transmitter and antenna, implemented stereo sound, and increased its power. This has improved the quality and reception of WOTV's signal, making it more attractive to viewers. WOTV also went on the air with digital in December 2002.

Although WOTV is finally profitable, it would not be profitable as a stand-alone station. But, under joint ownership with WOOD-TV, WOTV will remain a vital voice in the community.

(2) Hartford-New Haven, CT

LIN's experience in the Hartford-New Haven, Connecticut market (28th ranked DMA) illustrates how LMAs and co-ownership can transform otherwise fallow spectrum into a robust local outlet. LIN owns and operates VHF station WTNH-TV (Ch. 8, ABC), and in 1994 it began providing services under an LMA to the then-permittee of UHF station WCTX³⁸ (Ch. 59, I). In April 2002, LIN purchased WCTX pursuant to the "unbuilt station" duopoly waiver standard as the market did not satisfy the 8-voice test.³⁹

WCTX received its construction permit in 1954 but incredibly did not construct its facilities until April 1995, nearly 41 years later and after it had entered into an LMA with WTNH-TV. This unprecedented delay, due in part to WCTX's inability to obtain access to a

(footnote cont'd)

more efficient to maintain separate sales forces expert in selling the very different "products" offered by the two stations.

³⁸ This station was formerly licensed as WCTX-TV and WTVU-TV.

³⁹ See File No. BALCT-20010917AAD.

suitable transmission site, financially drained its owners. Only through its LMA with LIN was WCTX able to construct the station and reduce capital and operating expenses by utilizing WTNH-TV's tower and by combining certain overhead and administrative functions, such as traffic, billing and accounting systems.

For six years, LIN provided critical programming and advertising services to WCTX pursuant to the LMA. During this time, WCTX became an affiliate of the WB network. When WCTX lost that affiliation to a Tribune-owned station, its LMA enabled it to secure a UPN affiliation, increasing program choices for members of the public, opportunities for advertisers to reach their target audience and competition among broadcast stations in the Hartford-New Haven market.⁴⁰

In April 2000, using the facilities and assistance of WTNH-TV personnel, WCTX launched a local newscast to serve the New Haven area, airing from 10:00 p.m. to 10:30 p.m. Monday through Saturday. WCTX also began offering a number of local interest programs, including locally-produced 30-minute public affairs series such as *The Highlight Zone* (weekly programs focusing on high school football), *Dialogue With Laurel Vlock* (an interview show addressing various issues affecting Connecticut airing six times a year), and *What's Goin On!* (a monthly program focusing on the African-American community and multicultural issues).⁴¹ In the wake of September 11th, the station provided extensive news coverage of the tragedy and produced and aired local vignettes, *Community Voices*. WCTX also began airing a wide array of

⁴⁰ For example, there is little or no duplication in programming between WTNH-TV and WCTX, and each station operates with a separate sales staff.

⁴¹ In 1996, WCTX offered free airtime to federal congressional candidates in a series of eight 30-minute programs, an offer accepted by more than half of the 22 who were eligible. For several years, the station produced *Reflection of You*, a series of two-minute vignettes, aired daily, discussing different social policy issues.

sporting events of local interest, including New York Yankees, New York Mets and Boston Red Sox baseball games, and Quinnipiac University and Yale University men's hockey and basketball games. The station has broadcast telethons in support of adoption in conjunction with the Connecticut Department of Children & Families. WCTX also offers a wide variety of children's educational and informational programming. For example, six mornings a week WCTX offers *Disney's Recess*, a program that teaches children about important life lessons and on Sunday mornings airs programs about animals, wildlife and nature directed at children six to twelve years old.

Despite these efforts and accomplishments, and even after six years operating under the LMA, WCTX's financial condition continues to be precarious. The Hartford-New Haven market is robustly competitive. Many viewers are drawn to New York City stations, and residents throughout the DMA are drawn to popular cable networks due to the unusually high cable penetration rate (now 90%, the nation's second highest). Since entering into the LMA, WCTX's sign-on-to-sign off viewing shares have hovered around 2%,⁴² substantially below the 4% benchmark used as one key indicia for determining whether a station is "failing" under the failing station duopoly waiver standard. The revenues generated by WCTX, even allocating a disproportionate share of the fixed costs to jointly operated WTNH-TV, produced a cumulative broadcast cash flow loss of nearly \$5 million by 2001.⁴³

⁴² The station's share has not exceeded 2% for the July 2000, October 2000, November 2000, February 2001, May 2001 and July 2001 audience sweeps rating periods.

⁴³ If operated as a stand-alone station, WCTX's broadcast cash flow losses over the nearly six-year period would have totaled nearly \$11 million, without a single profitable year, and the *pro forma* capital investment would have been nearly \$28 million.

The further integration of WCTX and WTNH-TV achieved when LIN acquired WCTX in 2002, has created significant economies that have been essential to improving WCTX's service and increasing competition and diversity in the Hartford-New Haven market. WCTX has constructed multi-million dollar digital facilities, increased its power and obtained more favorable placement on local cable systems. Such advancements would not have been possible without joint ownership. In addition, WCTX will begin providing more programs that serve the Hispanic community, including a weekly Hispanic-oriented news recap program produced by another LIN station, WAPA in San Juan, Puerto Rico. Moreover, WCTX has expanded its weeknight 10:00 p.m. newscast, provided by WTNH-TV, to Sundays, and WCTX provides WTNH-TV's critical breaking news coverage to a new audience, since there is little viewer duplication between the two stations.⁴⁴

(3) Norfolk-Portsmouth-Newport News, VA

The Norfolk-Portsmouth-Newport News, Virginia, market (the 41st ranked DMA) provides further evidence that in-market joint operation can significantly enhance the quality and breadth of local news and community-oriented programming. LIN, which has owned and operated VHF station WAVY (Ch. 10, NBC) since 1969 entered into an LMA with WVBT (Ch. 43, I) in 1994. In January 2002, LIN acquired WVBT. Prior to entering into the LMA, WVBT offered home shopping service with virtually no local programming. Due to its very low power level, WVBT's potential audience was limited to approximately 700,000 viewers, less than half

⁴⁴ Through shared resources with WTNH-TV, WCTX has provided hundreds of hours of community non-profit outreach, including relationships with the Juvenile Diabetes Association, Middlesex Hospital, American Heart Association, Ronald McDonald House and Aids Project Hartford for which is received a certificate of appreciation in 2001. In addition, WCTX participates in the St. Patrick's Day Parade (where it was the winner of the 2001 Grand Marshall Award), raises money and collects toys for children who are victims of domestic abuse, coordinates the Jump Rope for Your Heart program, and sponsors the Trail of Terror benefiting the American Heart Association.

the number of viewers in the market. The LMA helped convert this underutilized station into a strong local competitor as WVBT replaced its home shopping format first as a WB affiliate and then, in 1998, as a Fox affiliate.⁴⁵ WVBT also upgraded its facilities and increased its power, more than doubling its potential audience reach to 1,664,000 homes.⁴⁶

As a result, WVBT has initiated a full slate of local newscasts and other innovative community-oriented programming. For instance, WAVY and WVBT collaborated to provide a high school football sports wrap-up show that aired for 30 minutes each Friday during football season.⁴⁷ After WVBT became a Fox affiliate, it commenced a local nightly newscast at 10:00 p.m., followed by a 15-minute daily local sports wrap. WVBT provided extensive coverage of Ground Zero and airs quarterly news specials called *Connecting With Kids*, which includes local packages focusing on children and family. In cooperation with PBS, WVBT participated in an Emmy Award winning special on Africa hosted by station anchor Kelly Wright. WVBT's provision of community and public service programming also includes *Families First*, a weekly half-hour, locally-produced series hosted by a WVBT anchor. Other WVBT programming includes the United Negro College Fund Telethon, quarterly specials featuring prominent African Americans, rebroadcasts of some of WAVY's children's programming and local college basketball and football games. WVBT has also launched an Internet website, including a community calendar. Prior to entering into its arrangement with LIN, WVBT employed 3 people. The station now has 37 employees and 3 part-time staff.

⁴⁵ WVBT duplicates no more than 3% of WAVY's programming on a weekly basis.

⁴⁶ More specifically, the upgrades included a new transmitter, tower, automation equipment, master control, sales office and two new antennas -- a primary and a standby.

⁴⁷ Both stations aired the first five minutes of the program at 11:30 p.m. When WAVY turned from its 11:00 p.m. newscast to NBC late night programming at 11:35 p.m., WVBT broadcast the remainder of the program.

b. LIN Local Marketing Agreements.

(1) Austin, Texas

The Austin, Texas, market is now the 54th ranked DMA, but remains channel constrained. With six UHF stations and one VHF station, it cannot satisfy the Commission's current 8-voice test. In 1979, LIN acquired station KXAN (Ch. 36, NBC), and in 1994, it entered into an LMA with station KNVA (Ch. 54, today WB). When LIN entered into the LMA, KNVA had not been built, primarily due to lack of funding. The existence of only four television stations in the market at that time not only foreclosed opportunities for new television networks, but also limited overall diversity.

As a result of its involvement with KXAN, KNVA became operational in 1994, with a first-class physical facility. KNVA became an outlet for the fledgling WB network and provided numerous programs that otherwise would have been available only on cable, including San Antonio Spurs basketball games and Round Rock Express (minor league) baseball games. Initially, KNVA offered traditional syndicated shows and other fare. But with the growing success of programming targeted at young viewers (Austin is the nation's youngest DMA), KNVA's program strategy and on-air look moved beyond the traditional to target the young, underserved Austin audience. LIN's resources have allowed KNVA to provide new syndicated and original programming. Newscasts have been replaced by short information breaks called *The Buzz*. KNVA has won awards for its public service campaigns targeting low voter turnout by young adults, including a WB network "Froggy" for affiliate excellence. Projects like "One For The Community" have raised over \$1,000,000 for Austin area schools and non-profits over the past five years, and the WB Kids Club has partnered with organizations such as the Austin Children's Museum and the Austin Zoo to offer discounted admission to young viewers and their families.

The station has invested over \$1.7 million to build state-of-the art digital facilities and has launched digital service pursuant to special temporary authority. The LMA has also enhanced competition by increasing the number of advertising spots in the market by approximately 45% during prime time and 25% overall. LIN, which has an option to acquire KNVA, would like to convert this station into a duopoly. But because the market has only seven full-power stations, it cannot meet the 8-voice test despite.

(2) Providence, RI-New Bedford, MA

The Providence, RI-New Bedford, MA market (the 48th ranked DMA) demonstrates that LMAs provide critical resources to financially disadvantaged stations that would not be viable on a stand-alone basis. LIN owns and operates WPRI-TV (Ch. 12, CBS) in Providence, which has an LMA with WNAC-TV (Ch. 64, FOX). While the Providence market has seven full-power stations and therefore just falls short the 8-voice standard, the DMA is intensely competitive, with NBC, CBS, ABC, Fox, WB/UPN, PAX and one educational station.

The WNAC-TV/WPRI-TV LMA was originally formed in June 1996. After LIN assumed the LMA in May 2002, the benefits of its leadership were immediate. In August 2002, WNAC-TV relaunched its nightly 45-minute 10:00 p.m. newscast, followed by a 15-minute sports wrap that includes local high school and college sports coverage. WNAC-TV has also added nightly 6:00 p.m. and 6:30 p.m. local newscasts. WNAC-TV news programs complement WPRI-TV's weekend schedule, which benefits the local audience because WPRI-TV often must preempt its own news programming for live CBS sports programming.

With LIN's assistance, WNAC-TV has recommitted itself to public affairs programming. For example, in November, WNAC-TV simulcast extended election coverage. In July, it broadcast the nation's oldest Independence Day parade. WNAC-TV airs a local 30-minute *Newsmakers* program on Sunday mornings, and it provides over three hours of

educational and informational children's programming weekly. WNAC-TV also has reinitiated community outreach programs and will become involved with Rhode Island Blood Center blood drives, the MS Walk, Rebuilding Together with Christmas in April, the Special Olympics, the Aquidneck Island Police Parade, the AIDS walk, breast cancer and leukemia walks, and the Marine Corps Toys for Tots Drive.

* * *

For the reasons developed above, the Coalition Broadcasters urge the Commission to liberalize its local TV station ownership rule, adopt more reasonable standards for the "failing station" exception, and acknowledge that other considerations may also justify waiver of the new rule.

LOCALISM ILLUSTRATED BY COVERAGE OF HURRICANE CHARLEY

Waterman Broadcasting Corp. of Florida, Inc. (“Waterman Broadcasting”) station WBBH-TV, UHF Channel 20 at Fort Myers, Florida, provides programming, advertising and certain other services to Montclair Communications, Inc. (“Montclair”) station WZVN-TV, UHF Channel 26 at Naples, Florida, pursuant to a grandfathered (or pre-November 5, 1996) time brokerage agreement (“LMA”). With the narrow exception noted below, the two Fort Myers-Naples market (the 70th ranked DMA) stations (the “Stations”) offer residents of the area completely separate and unique programming, including distinct newscasts produced by different news staffs.

The news staff of WBBH-TV and WZVN-TV totals 102 persons. As a result of the LMA arrangement, the number of separate news staff devoted to WZVN-TV local newscasts has grown to 37 persons. A separate staff of 51 is devoted to WBBH-TV newscasts, and 14 additional shared staff help manage and budget news resources. As a result of Waterman Broadcasting’s very substantial and on-going investments under the LMA, WZVN-TV, like WBBH-TV, now can utilize state-of-the-art facilities and equipment, including, for example, ENG vans for live remotes, weather stations positioned throughout the viewing area that provide real-time weather conditions including wind speed, temperature and rain fall, and the market’s only true Doppler Radar with sophisticated street mapping features with satellite view. During Hurricane George in 1998 and Hurricanes Charley and Jeanne in 2004, when weather situations potentially posed a considerable threat to the lives of a majority of the viewers in the Stations’ market area, the staff of the Stations joined forces to bring greater resources to bear and thereby better serve the local community.

In August 2004, Hurricane Charley presented such a special danger to the Fort Myers-Naples area that warranted more expansive and comprehensive news coverage. As the Hurricane moved northeast from the Gulf of Mexico, with initial National Weather Service projections indicating the eye would hit to our north in the Tampa-St. Petersburg area, WBBH-TV and WZVN-TV devoted much of their regular separate newscasts of Thursday, August 12, to the developing weather situation, explaining to viewers how they should prepare. As the Category Four Hurricane approached, it became evident that the Naples-Fort Myers viewing area could well be hit hard.

As the day progressed, the staffs of the Stations began to work together and by 11:30 p.m. Thursday night, they initiated combined coverage that continued for eight more days through Friday, August 20. By joining forces during this critical time, the Stations were able to bring together 102 professionals from the News Departments and 51 professionals from the Production Department to focus on an important weather situation posing grave risks to portions of Florida. From 8 p.m. on Thursday, August 12, through midnight on Monday, August 20, the Stations aired a total of 223 hours of local news, 101.5 hours on WBBH-TV and 121.5 hours on WZVN-TV. During much of August 13, the Stations operated commercial free.

The emergency coverage of Hurricane Charley resulting from this combining of forces and resources was praised by state officials, media representatives and the viewing public. One viewer, for instance, wrote to the Stations:

If not for your minute-by-minute pre-hurricane coverage, we would not have known that Charley suddenly intensified from a Category 2 to a Category 4 storm in a matter of minutes AND changed course at the same time. . . . Many thanks to the meteorology team who "dared" to veer from the National Hurricane Center's predictions - I am certain that you are responsible for saving many lives. You gave many area residents like ourselves a GOLDEN hour, or 1/2 hour in some cases, to prepare for the completely unexpected! . . . By airing your combined NBC-2/ABC-7 hurricane coverage on multiple radio stations, we were always able to find a clear channel, no matter the weather

interference, and stay abreast of everything that was happening in our area including ways we could help others.

Praise also came from our peers in the media industry. One media representative stated that “No one did a better job of covering the storm, or its aftermath than WBBH. . . . So often we deal with ratings, and revenues . . . but the core of this business is serving our community - you should all be proud of the way you continue to bring southwest Florida the most important information - first.” Another member of the media wrote about our coverage simply: “Journalist to Journalist, all I can say is: Thank You.” Praise has also come from Government officials. The Governor sent the Stations a note saying he was proud of our service to the State, and an official with the Lee County government asked that we “convey to [our] newsroom staff a sincere thanks from Lee County Government for all [we] have done for the community during this disaster.”

The combined broadcasts enabled a team of six meteorologists and one forecaster to work in tandem, providing an independent review of the storm track from that provided by the National Weather Service. Before the National Weather Service altered its forecast, the WBBH-TV/WZVN-TV team was able to project that Hurricane Charley was going to come ashore earlier and further south than expected and hit Charlotte Harbor and the barrier islands of Lee County in our viewing area. The Doppler radar revealed with great detail the exact position of the eye of the hurricane and the most intense weather associated with the storm. The Stations’ coverage therefore gave area residents much needed advanced warning to prepare them for a direct hit.

Further, by combining forces the Stations were able to provide more extensive coverage of the emergency situation and establish important redundancies to protect against equipment failure during the hurricane. Hurricane Charley, for instance, badly damaged two microwave live trucks and a satellite truck. WZVN-TV suffered power outages throughout the

afternoon of Thursday, August 12, and was forced off the air for nearly eight hours between 4 p.m. and midnight, and then again on Sunday afternoon from 2:30 to 3:00 p.m. Nevertheless, the public continued receiving the combined coverage via WBBH-TV and local radio stations that were rebroadcasting the audio from the simulcast of WBBH-TV and WZVN-TV.¹ Viewers were also able to get the signal of WZVN-TV over cable if they still had electricity as we provide a direct feed to the cable companies via a fiber link.

As a further public service, the Stations repeatedly directed members of the public to the WBBH-TV and WZVN-TV websites, which Waterman Broadcasting arranged at substantial expense to be staffed 24 hours a day during this period so that critical hurricane weather and recovery information could be constantly updated. As Waterman Broadcasting saw the storm coming, its Internet team contracted with the Internet service provider to increase the servers' bandwidth 10 fold, at a cost of \$60,000, to accommodate the increased traffic to the Stations' websites. The live signal of the Stations was streamed uninterrupted. Audited reports indicate that during the seven day period from August 12 through August 19, more than 185,000 different users spent more than 8 million minutes viewing the Stations' websites.

The teaming of WBBH-TV and WZVN-TV allowed the Stations to meet the public's need for constant information about the Hurricane recovery efforts after the storm had devastated parts of the region without depriving residents of the opportunity to view portions of the much anticipated Summer Olympics. WBBH-TV was able to offer key portions of Olympic

¹ Waterman Broadcasting and Montclair made arrangements to air their key news coverage live over several radio stations, which additional service became crucial with power outages in the area and more residents were forced to rely on battery-powered radios.

coverage, while notifying viewers that the continuous weather coverage and local news remained available on WZVN-TV.

The Stations' public service efforts directed to the Hurricane Charley situation continued after the storm subsided. WBBH-TV and WZVN-TV partnered with the *Naples Daily News*, Renda Broadcasting and Beasley Broadcasting to raise money to benefit the relief efforts of the American Red Cross and the Salvation Army. Working together, WBBH-TV and WZVN-TV personnel, for example, produced a DVD titled "The Wrath of Charley," which features a one-hour news broadcast of the events on August 13 and the following week. Profits from the sales of the DVD are donated to the relief fund and, to date, this has resulted in contributions of well over \$100,000. The relief fund already has raised more than \$550,000.